

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOHN MONTANO and RUTHIE MONTANO,
Individually and as Parents and Guardians of
ZACKARY KYLE MONTANO, a minor, and
HANNAH JOY MONTANO, a minor,

Plaintiffs,

vs.

Civ. No. 99-344 RLP/WWD

ALLSTATE INDEMNITY COMPANY and
BILLIE JO MARSH,

Defendants.

MEMORANDUM OPINION AND ORDER

This cause comes before the Court upon Defendant's Motion to Reconsider Magistrate Deaton's Memorandum Opinion and Order of November 30, 1999 (hereinafter "Order"). The Order required Defendant Allstate Indemnity Company (hereinafter "Allstate") to answer an interrogatory which necessitated compiling certain information regarding certain types of lawsuits against Allstate in New Mexico over the past ten years. After partial compliance with the Order, Allstate, citing the now demonstrated time and expense involved, seeks relief from the Order; cost sharing; or an extension of time in which to comply with the Order. Allstate's motion is supported by the affidavit of the paralegal whose organization is assembling the required information as well as the information gathered to date in tabular form. Plaintiff responds to the motion contending that the arguments are the same which failed to persuade the Court before; and that, contrary to the assertions of Allstate, Allstate has a data base in which much of the sought information is contained. In its Reply, Allstate persists in asserting that it "has no computerized method of searching bad faith claims filed in New Mexico."

DISCUSSION.

The positions set out above cannot be reconciled. It seems unlikely to me that Allstate must resort to a manual approach in developing the sought information. Nevertheless, given the fact that the overwhelming majority of bad faith and unfair trade litigation involving Allstate in New Mexico would have been in the State judicial districts which have been examined, the 4th and the 11th Judicial Districts, and in the United States District Court, it is hard to justify the expense of pursuing the matter through the other less populous districts. Accordingly, I will require that the information to be gathered in response to Interrogatory #6 shall be limited to the 1st, 2nd, 3rd, 4th, 5th, and the 11th Judicial Districts of the State of New Mexico, and the United States District Court for the District of New Mexico. This information shall be provided to Plaintiff on or before January 24, 2000. Costs will not be shared.

Discovery shall proceed in accordance with the foregoing.

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE